IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

Bail Appl..No. 5555 of 2007(A)

CR. NO. 371/07 OF KANNUR TOWN POLICE STATION

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PETITIONERS

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1. K.M.ABDUL LATHEEF, AGED 63 YEARS,
   S/O. ABDUL HAMEED, RESIDING AT
   AHABAS, P.O. PALLIKKUNNU,
   KANNUR-4.

2. T.J.SANTHOSH, AGED 36 YEARS,
   S/O. T.J. JOSE, RESIDING AT
   THAYYIL HOUSE,P.O. NEELESWAR,

BY ADV. SRI.K.DIVAKARAN NAIR

RESPONDENTS: RESPONDENT

SUB INSPECTOR OF POLICE ,KANNUR
TOWN POLICE STATION (CRIME NO. 371/07)
REPRESENTED BY THE DIRECTOR OF PROSECUTION,
HIGH COURT, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5555 of 2007

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Dated this the 19th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioners are the Manager and Managing Director of a computer training centre by name One Zero Computers. They face allegations, inter alia, under Section 420 I.P.C. The crux of the allegations against the petitioners is that they made fraudulent misrepresentation to the public at large and induced the gullible members of the public like the defacto complainant to pay amounts and join the training course conducted by the One Zero Computer Centre. Huge amounts were collected from the victims like the defacto complainant as entrance fee and tuition fee. Crime was registered on the basis of a complaint filed by the defacto complainant before the learned Magistrate, which was referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the allegations raised are totally unsustainable. A disgruntled student is

raising untenable allegations against the petitioners. There is no dispute that the petitioners run a computer centre. There is no dispute that the petitioners have issued certificates to the defacto complainant, a successful candidate. There is no dispute that the Electronics Corporation of India Ltd. (E.C.I.L.) has also issued the Diplomas to the defacto complainant and other like students.

3. What then is the grievance of the defacto complainant? The defacto complainant complains that the petitioners had represented that he will get a certificate which is approved by the National Council of Vocations Training (N.C.V.T.). That is the allegation in the complaint. He has in fact received only a certificate issued by the Electronics Corporation of India Ltd. and the said diploma is not approved or recognized by the N.C.V.T. The prosecution does not now stress on that allegation very much. The news paper publication etc., under which the petitioners had advertised, show clearly that they were claiming to issue certificate of Electronics Corporation of India Ltd., a Central Government undertaking. No specific representation that the petitioners had N.C.V.T. approval is ever seen made. Except an assertion of the defacto complainant in the complaint, there is nothing to show that such a representation was made.

4. There is a further allegation that the Centre at Kannur was not an authorised centre of E.C.I.L. There is no dispute that the petitioners have due authorisation to run the course at Neeleshwaram from the E.C.I.L. The fact that they ran the course at Kannur even if it might offend the terms of the agreement between the E.C.I.L. and the petitioners cannot at any rate be held to be practice of deception against the defacto complainant and others similarly placed.

5. Prima facie I do find merit in the prayer for anticipatory bail. I may hasten to observe that I have not intended to decide on the acceptability or otherwise of the allegations or the data collected.

6. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 26.9.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 27.9.07 and thereafter as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 26.9.06 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 26.9.2006 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 26.9.2007.

(R. BASANT)
Judge

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